

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

|                                     |   |            |
|-------------------------------------|---|------------|
| ELECTRONIC APPLICATION OF ATMOS     | ) |            |
| ENERGY CORPORATION TO ESTABLISH PRP | ) | CASE NO.   |
| RIDER RATES FOR THE TWELVE MONTH    | ) | 2021-00304 |
| PERIOD BEGINNING OCTOBER 1, 2021    | ) |            |

ORDER

On August 30, 2021, Atmos Energy Corporation (Atmos) filed for rehearing, pursuant to KRS 278.400, of the Commission's August 20, 2021 Order, which suspended Atmos's annual Pipeline Replacement Program (PRP) rider rates, to await the outcome of Case No. 2021-00214,<sup>1</sup> Atmos's pending base rate case, regarding the appropriate Return on Equity and the proposed inclusion of Aldyl-A plastic pipe replacements in the PRP.

Atmos requested that the Commission grant rehearing of the August 20, 2021 Order to allow its proposed PRP rates to go into effect on October 1, 2021, subject to refund, based on the final decision in Case No. 2021-00214 or this case.<sup>2</sup> Alternatively, Atmos requests that the Commission set its PRP rates to recover the full revenue requirement over the remaining period between when rates are set and October 1, 2022, similar to treatment that was granted for Columbia Gas of Kentucky, Inc. in Case

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<sup>1</sup> Case No. 2021-00214, *Electronic Application of Atmos Energy Corporation for an Adjustment of Rates* (filed July 20, 2021).

<sup>2</sup> Atmos's Petition for Rehearing at 3.

No. 2020-00327,<sup>3</sup> when its Safety Modification and Replacement Program rider rates, which also use a forecasted period, were suspended.<sup>4</sup> Atmos argued that its PRP tariff allows for the filing schedule which Atmos followed in this case and that without the requested relief, Atmos will under-recover its PRP expenditures.<sup>5</sup> Similar to arguments made in its application,<sup>6</sup> Atmos stated that “unnecessary regulatory lag” will prevent it from recovering its full cost of service if its proposed PRP rates are not allowed to go into effect on October 1, 2021.<sup>7</sup>

KRS 278.400, which establishes the standard of review for motions for rehearing, limits rehearing to new evidence not readily discoverable at the time of the original hearings, to correct any material errors or omissions, or to correct findings that are unreasonable or unlawful. A Commission Order is deemed unreasonable only when “the evidence presented leaves no room for difference of opinion among reasonable minds.”<sup>8</sup> An Order can only be unlawful if it violates a state or federal statute or constitutional provision.<sup>9</sup>

By limiting rehearing to correct material errors or omissions, and findings that are unreasonable or unlawful, or to weigh new evidence not readily discoverable at the time

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<sup>3</sup> Case No. 2020-00327, *Electronic 2021 Safety Modification and Replacement Program Filing of Columbia Gas of Kentucky, Inc.* (Ky. PSC June 4, 2021).

<sup>4</sup> Atmos’s Petition for Rehearing at 3.

<sup>5</sup> *Id.* at 1–2.

<sup>6</sup> Application, Direct Testimony of Brannon Taylor at 9.

<sup>7</sup> Atmos’s Petition for Rehearing at 2.

<sup>8</sup> *Energy Regulatory Comm’n v. Kentucky Power Co.*, 605 S.W.2d 46 (Ky. App. 1980).

<sup>9</sup> *Public Service Comm’n v. Conway*, 324 S.W.3d 373, 377 (Ky. 2010); *Public Service Comm’n v. Jackson County Rural Elec. Coop. Corp.*, 50 S.W.3d 764, 766 (Ky. App. 2000); *National Southwire Aluminum Co. v. Big Rivers Elec. Corp.*, 785 S.W.2d 503, 509 (Ky. App. 1990).

of the original hearings, KRS 278.400 is intended to provide closure to Commission proceedings. Rehearing does not present parties with the opportunity to relitigate a matter fully addressed in the original Order.

The Commission finds that no public purpose is served by setting the PRP rider rates before a proper investigation can be conducted and that several proposals presented in Case No. 2021-00214 must be decided upon before appropriate PRP rates may be set, such that any definite decision regarding the PRP rates would be premature. Therefore, the Commission finds that rehearing should be denied because Atmos offers no new evidence that could not have been presented in its application and the Commission's decision to suspend the PRP rider rates is not unlawful or unreasonable.

IT IS THEREFORE ORDERED that Atmos's motion for rehearing is denied.

By the Commission



ATTEST:

  
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